

EXHIBIT D

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DEPOSITION OF TALA TOMEI
(Volume I)

December 16, 2019

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JEFF RUSK COURT REPORTING & VIDEO
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CERTIFIED COPY

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1 D E P O S I T I O N,

2 The deposition of TALA TOMEI, taken at the
3 request of the Defendants, pursuant to the Federal
4 Rules of Civil Procedure, on the 16th day of
5 December, 2019, at the offices of Arnett, Draper &
6 Hagood, Suite 2300, First Tennessee Plaza,
7 Knoxville, Tennessee, before Jeffrey D. Rusk,
8 Registered Professional Reporter and Notary Public
9 at Large for the State of Tennessee.

10 It is agreed that the deposition may be
11 taken in machine shorthand by Jeffrey D. Rusk,
12 Registered Professional Reporter and Notary Public,
13 and that he may swear the witness and thereafter
14 transcribe his notes to typewriting and sign the
15 name of the witness thereto, and that all
16 formalities touching caption, certificate, filing,
17 transmission, etc., are expressly waived.

18 It is further agreed that all objections
19 except as to the form of the questions are reserved
20 to on or before the hearing.

21 TALA TOMEI,
22 called as a witness at the instance of the
23 Defendants, having been first duly sworn, was
24 examined and deposed as follows:

25

1 (Proceedings began at 4:43 PM)

2 EXAMINATION

3 BY MR. YOUNG:

4 Q. Ms. Tomei, my name is Broderick
5 Young, this is Devin Lyon. And we represent, with a
6 couple other attorneys, Parkwest and Covenant Health
7 in this lawsuit that we are here about today.

8 You're familiar with the fact that
9 this lawsuit is pending?

10 A. Uh-huh. Yes.

11 Q. Okay. Have you ever been in a
12 deposition before.

13 A. No, sir.

14 Q. Well, a deposition is a little bit
15 different than a normal conversation. One, it's a
16 proceeding in a lawsuit. You're under oath.

17 Do you understand what that means?

18 A. Yes.

19 Q. And for our purposes the biggest
20 distinction is everything is being typed that you're
21 saying and transcribed, and we are going to do
22 everything we can to have an accurate and clear
23 record, and so to have that clear record we want to
24 observe a few protocols, one of which it's real
25 important for you to answer my questions with verbal

1 responses.

2 A. Okay.

3 Q. If you shake your head or if you
4 give kind of half enunciated words like uh-huh or
5 huh-uh, I understand what you are meaning today, but
6 if we go back and look at this several months from
7 now or years from now, God forbid, we may not fully
8 understand what it is you meant, so it's always
9 important to fully enunciate whatever your responses
10 are.

11 And it's always important for you
12 to let me finish my question before you begin to
13 answer yours. One, I may not be asking the question
14 you think I'm asking and, two, it jumbles up the
15 record if we start talking over each other.

16 Have you ever been in a lawsuit
17 before?

18 A. No.

19 Q. What is your address?

20 A. 224 Hope, H-o-p-e, Way, Loudon,
21 Tennessee, 37774.

22 Q. How far do you have live from your
23 dad?

24 A. About 15 minutes.

25 Q. Do you live alone?

1 A. No, I live with my mom.

2 Q. Have you always lived with your
3 mom?

4 A. No.

5 Q. Where does your mom live? The 224
6 Hope Way?

7 A. Uh-huh.

8 Q. Okay. Where are you currently
9 employed?

10 A. Carolina Ale House.

11 Q. Here in Knoxville?

12 A. Yes, sir.

13 Q. And what do you do for them?

14 A. I'm a server.

15 Q. Okay. How long have you worked
16 there?

17 A. A year.

18 Q. Did you attend high school in
19 Loudon?

20 A. In Lenoir City.

21 Q. Which high school did you go to?

22 A. Lenoir City High School.

23 Q. Did you graduate?

24 A. Yes.

25 Q. Did you attend any schooling after

1 that?

2 A. I went to real estate school.

3 Q. Okay. Did you graduate?

4 A. Yes.

5 Q. Did you get a real estate license?

6 A. Yes.

7 Q. Did you ever practice?

8 A. Yes.

9 Q. Okay. Do you still do some real
10 estate?

11 A. Here and there sometimes.

12 Q. You still have your license though,
13 right?

14 A. Yes.

15 Q. As far as being a server, have you
16 been a server anywhere else?

17 A. Yes.

18 Q. Okay. Where is that?

19 A. I worked at Cracker Barrel in
20 Lenoir City.

21 Q. All right.

22 A. And then I worked at a diner called
23 Good Eats Cafe.

24 Q. Okay.

25 A. And then I lived in North Carolina

1 for a little while and worked at a restaurant there
2 called Lone Star Steak House.

3 Q. Your dad said you might be taking
4 some online courses. Are you taking any online
5 courses?

6 A. No.

7 Q. Do you have any plans to go back to
8 school?

9 A. Yes.

10 Q. What would you like to do?

11 A. I would like to get into
12 interpreting.

13 Q. Okay. Are you fluent in ASL?

14 A. Yes.

15 Q. Okay. Now, did you pick up ASL
16 just from being around your parents or is that
17 something you actually studied somewhere?

18 A. Just from being around my parents.

19 Q. Are you aware that you are the
20 emergency contact for your father?

21 A. Yes.

22 Q. Okay. Did he let you know that?

23 A. Yes.

24 Q. Okay. Did he explain why you were
25 the emergency contact?

1 A. Probably because I'm hearing and --
2 I'm his oldest, and my brother is not as responsible
3 I would say.

4 Q. That's true in every family.
5 The -- is your brother ASL fluent
6 as well?

7 A. Sort of, uh-huh.

8 Q. Okay. Have you done any
9 interpreting for anyone other than your father?

10 A. No.

11 Q. Okay. Do you do any interpreting
12 for your mom?

13 A. Sometimes if she needs me, but not
14 for like anything important. Usually just if we are
15 at the store or something.

16 Q. Okay. What does she do if she
17 needs something important?

18 A. She can -- she can talk pretty well
19 and she wears cochlear implants, so she communicates
20 pretty well. But otherwise, if she needs one she
21 tries to get an interpreter.

22 Q. Okay. But you're saying that she's
23 capable of communicating pretty well without
24 assistance?

25 A. Normally, uh-huh.

1 Q. Okay. What are the limitations on
2 her ability to communicate?

3 A. Sometimes she has to read lips and
4 sometimes it can be hard for her because some people
5 don't really move their mouths or enunciate their
6 words, and she has trouble with pronunciations, too.

7 Q. Do cochlear implants, does that
8 allow her to be able to hear words?

9 A. Yes, uh-huh.

10 Q. Can she speak on the phone?

11 A. No, not really.

12 Q. But if she's with somebody
13 physically she can pretty much communicate with
14 them?

15 A. Yeah, uh-huh.

16 Q. Does she go to doctor's visits by
17 herself?

18 A. Normally, yeah, just for regular
19 checkups and stuff.

20 Q. Okay. Have you ever known her to
21 bring an interpreter with her on a medical visit?

22 A. Yes.

23 Q. Can you give me -- well, how often
24 would that be?

25 A. She has -- she has diabetes so she

1 goes when she goes to see her endocrinologist, she
2 definitely takes one with her.

3 Q. Outside of something super
4 technical like that, she might just go by herself?

5 A. Probably, yes.

6 Q. Does she ever go with your father
7 on medical appointments?

8 A. Not normally, no.

9 Q. Is that something you would do?

10 A. Sometimes. I don't really -- not
11 if it's just like a regular doctor's appointment,
12 no, but maybe if it was something important I might.

13 Q. Okay. Does he go by himself
14 sometimes?

15 A. Yeah, to his regular doctors,
16 uh-huh.

17 Q. How does he communicate with his
18 regular doctors?

19 A. I believe he gets an interpreter.

20 Q. Okay. Does he ever go in just by
21 himself?

22 A. Honestly I'm not sure. I don't
23 know.

24 Q. Okay. But some occasions you'll
25 go?

1 A. I haven't been with him to like a
2 family doctor. I've only really went to anything
3 that was sort of an emergency.

4 Q. Okay. When is the last time that
5 you attended a medical appointment with him?

6 A. A couple of months ago he had to go
7 to the hospital because they found another clot in
8 his left leg.

9 Q. And you went with him?

10 A. Yes, sir.

11 Q. Did you help communicate with the
12 health care providers?

13 A. No.

14 Q. Okay. What was your role?

15 A. I was just there for support.

16 Q. Okay. Do you think you would be
17 capable of communicating with health care providers
18 and your father if need be?

19 A. I mean -- I could, yes, but
20 sometimes they have medical terms that I don't
21 really understand or know how to communicate that
22 effectively to him.

23 Q. Have you ever attended a medical
24 appointment and translated for him with a health
25 care provider?

1 A. Yes.

2 Q. Okay. Is that more than once?

3 A. No, it was just the time that we
4 are here for.

5 Q. Okay. Did you do anything to
6 prepare for today's deposition?

7 A. No.

8 Q. What is your understanding of why
9 you are here?

10 A. Excuse me. That the hospital that
11 my dad was at, Parkwest Hospital, didn't provide an
12 interpreter or the interpreter that they did
13 provide, the computer was defective.

14 Q. Did you participate in trying to
15 get him an interpreter while he was at Parkwest?

16 A. I did.

17 Q. Okay. What did you do?

18 A. I asked several nurses and doctors
19 if we could have an in-person interpreter because
20 the VRI machine was ineffective.

21 Q. Now, why -- when did you make this
22 request?

23 A. Several times a day that we were
24 there.

25 Q. When were you there?

1 A. I can't remember the exact dates
2 unfortunately, but I was there basically every day
3 that he was in the hospital.

4 Q. And every time you were there you
5 asked nurses for a live interpreter?

6 A. Yes.

7 Q. Do you remember the names of any of
8 the nurses?

9 A. I don't, unfortunately, I'm sorry.

10 Q. And what did the nurses say when
11 you would ask for one?

12 A. They would always tell me that one
13 was on the way.

14 Q. When you would visit the hospital
15 how long would you stay there for?

16 A. Hours, sometimes the whole day. I
17 spent the night one night.

18 Q. Do you remember what night that
19 was?

20 A. I don't, I'm sorry.

21 Q. Do you have any way of determining
22 what night it was you stayed?

23 A. Possibly if I looked at some
24 paperwork I might could, but I -- I'm not exactly
25 sure. The whole time is sort of a blur.

1 Q. Were you at the hospital when he
2 was discharged?

3 A. I was not, no.

4 Q. Okay. If you will do me a favor.
5 There's some documents there, Exhibits 11 through
6 14. Do you see those?

7 MR. ROZYNSKI: Here is 11, 12. 13,
8 and 14.

9 Q. (BY MR. YOUNG) Do you see the
10 signature on Exhibit No. 11?

11 A. Yes.

12 Q. Okay. Do you know whose signature
13 that looks like?

14 A. I don't know, no, sir.

15 Q. Is it yours?

16 A. No.

17 Q. Did any nurse ever say or -- strike
18 that.

19 Did any nurse ever refuse to
20 provide an interpreter?

21 A. They never outright refused, but
22 they never provided one.

23 Q. An interpreter never showed up?

24 A. Right.

25 Q. To your knowledge.

1 A. Right.

2 Q. Was a VRI ever used while you were
3 present?

4 A. It was, yes.

5 Q. What occasions was the VRI used
6 while you were present?

7 A. Any time a nurse would come in they
8 would try to use -- well, for the first day anyway,
9 they would try to use the VRI machine.

10 Q. Was there any day that you weren't
11 there?

12 A. I mean, I wasn't there the entire
13 time. I tried to be there every day for at least a
14 few hours but don't recall there being a day that I
15 wasn't there entirely.

16 Q. Who else was there when you would
17 come visit?

18 A. My mom would be there, my dad's
19 girlfriend and his mom and her husband were all
20 there.

21 Q. You said you kept asking for an
22 interpreter. Was anyone else asking for an
23 interpreter besides you?

24 A. My mom was.

25 Q. Did you witness her asking for an

1 **interpreter?**

2 A. Yes.

3 Q. **And what did the nurses tell her?**

4 A. The same thing they told me, that
5 they were trying to get one.

6 Q. **Did you ever witness a successful**
7 **interaction with the VRI?**

8 A. No.

9 Q. **Not once?**

10 A. No.

11 Q. **And I guess success could be**
12 **measured a lot of different ways.**

13 Was there ever an occasion when the
14 VRI was plugged in and the interpreter popped up?
15 Did you ever see the interpreter pop on the screen?

16 A. Yes, I did see an interpreter pop
17 up on the screen, yes.

18 Q. **Was your dad ever able to make any**
19 **communication at all with the person on the screen?**

20 A. Not -- no, not very well. Both the
21 interpreter and my dad, you could hear the
22 interpreter talking on the VRI machine and she was
23 saying that she was having trouble seeing him, that
24 it was freezing up a lot and he was seeing the same
25 thing on his side.

1 Q. Okay. Was the -- how many
2 occasions were you there when the VRI machine was
3 used?

4 A. Like I said, they really only used
5 it the first day, and then after the complications
6 they never even -- they actually took it the out of
7 the room, I believe.

8 Q. Are you sure about that or are you
9 guessing?

10 A. I'm not one hundred percent sure,
11 but they did not use it after the first day. They
12 just relied on me or my mom.

13 Q. Now, you say the first day. So
14 does that mean there was just one occasion when it
15 failed that you witnessed?

16 A. Yeah, multiple times that day that
17 they tried it.

18 Q. So you are saying -- how many times
19 if you can remember?

20 A. I would say five or six. I can't
21 really say for sure but several times that they
22 tried to use it.

23 Q. And would they just turn it off or
24 would they say goodbye or what happened?

25 A. The VRI would just freeze up and

1 then they would try to call an interpreter back and
2 it wasn't working so then they would eventually
3 unplug it. And then I believe that kind of word got
4 around between the nurses on the floor that I was
5 there and interpreting, so then that's sort of why
6 they didn't try to utilize it anymore.

7 Q. Did you ever ask that they try to
8 utilize the VRI?

9 A. No.

10 Q. Okay. When you say unplug it,
11 where did it unplug from?

12 A. An outlet in the wall. It was like
13 rolled in on a pole and they would plug it into the
14 wall.

15 Q. Okay. So the word got around that
16 you were there interpreting, so the nurses kind of
17 fell back on you instead of a live interpreter.

18 A. Yes.

19 Q. I guess instead of an ASL qualified
20 interpreter, so to speak.

21 A. Right.

22 Q. Was there ever an occasion while
23 you were there that you felt like the nursing staff
24 didn't understand something that your dad was
25 experiencing because of the absence of a live

1 **interpreter?**

2 A. Yes. Uh-huh.

3 **Q. Okay. When was that?**

4 A. Well, I know that he was trying to
5 let, you know, express that he was in pain and that
6 something didn't feel right and they kept telling
7 him that -- or they were telling me to interpret to
8 him that they just -- that he just needs to give it
9 time, that he would eventually feel better. But he
10 didn't really feel like he was able to communicate
11 how he was feeling or what he was going through.

12 **Q. When you say how he was feeling and**
13 **what he was going through, are you talking about**
14 **pain?**

15 A. Right. Yes.

16 **Q. Anything in addition to pain?**

17 A. I'm sorry, could you clarify --

18 **Q. Well, was there anything that you**
19 **didn't think the staff was getting other than the**
20 **level of pain that your father was in?**

21 A. I'm not really sure. I don't --
22 I'm trying to think of specific occasions that that
23 might have happened. I mean, I know that when he
24 was -- I wasn't there when he was discharged but I
25 do know that when he was discharged that he was

1 telling the nurse that his legs still hurt and the
2 nurse -- there was no interpreter, he was just using
3 his voice and he was saying my leg still hurts and
4 the nurse thought he was saying that he wanted to go
5 home, that he was saying home, and then she just,
6 you know, kept saying, yeah, we are going to send
7 you home and he was like trying to say no, I'm
8 hurting.

9 Q. Do you know if your mom was present
10 at discharge?

11 A. She was, I believe, uh-huh.

12 Q. Okay. Well, do you think she would
13 have been able to understand what your father was
14 saying?

15 A. She probably would have, yes.

16 Q. Okay. Do you --

17 INTERPRETER: Are you okay with us
18 leaving? We can stay, but there's a bill
19 that comes with it.

20 MR. YOUNG: I know, but unless they
21 are picking it up, I guess we are done.

22 (Interpreters leave the deposition)

23 Q. (BY MR. YOUNG) Who told you about
24 the hurt and home confusion?

25 A. My dad did.

1 Q. When did he tell you this?

2 A. The day after he -- or the day that
3 he got home.

4 Q. You he said he actually wanted to
5 stay at the hospital?

6 A. Yes.

7 Q. Was there any thought about taking
8 him back to another hospital?

9 A. He was being followed up with like
10 a physical therapist, occupational therapist, and I
11 believe they came like the next morning and they --
12 I believe from Parkwest, too, and they were telling
13 us the way his leg looked, looked normal and -- like
14 my dad actually Facetimed me because there was no
15 interpreter present when the therapist came either,
16 so he Facetimed me so I could tell him what the
17 therapist was --

18 (Mr. Tomei reenters the room).

19 MR. YOUNG: What is going on?

20 MR. ROZYNSKI: He wants to be
21 present.

22 MR. YOUNG: Okay.

23 MR. ROZYNSKI: He doesn't feel
24 comfortable not being here.

25 MR. YOUNG: Okay.

1 MR. ROZYNSKI: And so she has --
2 she might have work tomorrow, so he's
3 concerned about that and -- going back and
4 forth.

5 Okay. So I guess we'll start at
6 9:00 a.m. tomorrow.

7 MR. YOUNG: Okay. We are going to
8 postpone from here on out, I guess? Is that
9 it?

10 MR. ROZYNSKI: Yes.

11 MR. YOUNG: Will they agree not to
12 talk about the case or anything between now
13 and tomorrow?

14 MR. ROZYNSKI: Okay. Yep.

15 MR. YOUNG: All right. I guess we
16 are done then. Thank you.

17 (Off the record at 5:08 p.m.)

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1 C E R T I F I C A T E

2 STATE OF TENNESSEE:

3 COUNTY OF KNOX:

4

5 I, Jeffrey D. Rusk, Registered
6 Professional Reporter and Notary Public, do hereby
7 certify that I reported in machine shorthand the
8 foregoing proceedings; that the foregoing pages,
9 inclusive, were prepared by me using computer-aided
10 transcription and constitute a true and accurate
11 record of said proceedings.

12 I further certify that I am not an
13 attorney or relative of any attorney or counsel
14 connected with the action, nor financially
15 interested in the action.

16 Witness my hand and official seal
17 this the 16th day of December, 2019.

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Jeffrey D. Rusk, RPR, CLVS
Notary Public at Large
My Commission Expires: 6/4/2022
TCRB License No. 212

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